

Serial No. 09/910,520
Reply to Office Action of July 9, 2004

REMARKS

Claims 1-26 were pending in the Office Action. The Examining Attorney objected to claims 8 and 9 based upon certain identified informalities. Claims 1-5, 8-16, 18-22 and 24- 26 were rejected 35 U.S.C. §103 over Hirsch in view of MacFarlane. Claims 6 and 17 where rejected under Section 103 based upon Hirsch/MacFarlane in further view of Fabbri. Finally, claims 7 and 23 were rejection under Section 103 based upon Hirsch/MacFarlane in further view of Rifkin. Applicant has not previously had the opportunity to consider the claims in view of Hirsch or Fabbri. Therefore, Applicant requests that the Examiner enter and consider the present amendment.

The typographical errors that were the source of the Examiner's objections to claims 8 and 9 have been addressed.

Claims 1, 6 and 16 have been amended. New claims 27 and 43 have been added.

As previously discussed, MacFarlane discusses a method and instruments in a color selection system in which a person's skin color is the exclusive determinative factor in color compatibility. See Col. 2, ln. 29-31. Therefore, MacFarlane expressly teaches away from the concept of using other physical characteristics either alone or in combination as a means for determining color/fashion compatibility.

Hirsch is likewise limited to a single feature, hair. Specifically, Hirsch is direct to a chart for mixing colorants in an effort to obtain a close color match for each customer's hair. Notably, the proper identification of each individual's hair color is left entirely to a stylist that must rely entirely on his or her personal experience to *visually* (not digitally or electrically) compare the individual's hair with the chart. See Hirsch, Col. 6, lines 24 – 28. Furthermore, unlike the

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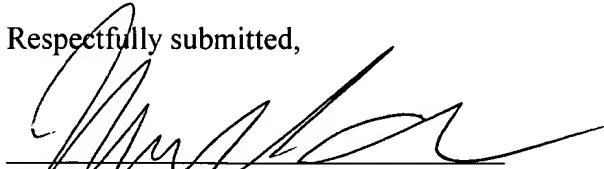
present invention, Hirsch does not teach or discuss the concept of hair color as part of an overall fashion scheme (i.e., hair, clothes, makeup, etc.) Therefore, Hirsch is clearly limited to the mixing colorants.

Additionally, neither Hirsch nor MacFarlane teach or suggest the idea of capturing actual physical characteristic data from an individual and using two (or more) or those physical characteristics to develop a comprehensive list of complimentary fashion selections. By physically capturing the individuals physical characteristic data, there is no need for the visual guess work of the Hirsch chart system. Furthermore, by basing the identified selection on at least two physical characteristics, the individual is only presented with a better “fashion” picture for himself or herself.

Finally, regarding claims 27 and 33, neither Hirsch nor MacFarlane teach or suggest the concept of basing the identified sections for the individual on a requested result for the individual.

Accordingly, in view of the above amendments and remarks, Applicant submits that the application is now in proper form for allowance. Such action is respectfully requested.

Respectfully submitted,



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Serial No. 09/910,520

Reply to Office Action of July 9, 2004



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